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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,285	09/11/2003	Randall S. Hickie	END-883NP	5322
27777	7590	12/15/2006	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			PARRIES, DRUM	
			ART UNIT	PAPER NUMBER
			2836	

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/660,285	Applicant(s) HICKLE, RANDALL S.	
	Examiner Dru M. Parries	Art Unit 2836	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 12-19 have been considered but are moot in view of the new ground(s) of rejection.
2. Applicant's arguments, see page 6, filed October 18, 2006, with respect to the drawings have been fully considered and are persuasive. The objection of Fig. 3 has been withdrawn.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mengelt (5,473,533) and Bachinski et al. (2003/0173828). Mengelt teaches a backup power system with a method of operation comprising supplying power via a main power source (AC line) (Col. 1, lines 60-62) and checking for disruptions of the main power source and supplying power via a battery, in a variable mode (i.e. sinusoidal or quasi-sinusoidal waveforms), if said disruption occurs (Col. 1, line 67; Col. 2, lines 1-3, 13-15). He also teaches switching back to the main power source if said disruption is resolved (Col. 2, lines 30-33). Mengelt fails to explicitly teach what type of load is being supplied with power via the backup power system. Bachinski teaches the idea of using backup power systems for supplying power to medical devices for those that are ill ([0003], lines 15-19). It would have been obvious to one of ordinary skill in the art at the time

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of the invention to have the load in Mengelt's invention be a medical device (i.e. sedation and analgesia system) since Mengelt was silent on this issue and Bachniski teaches a type of load used in this type of system.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mengelt (5,473,533) and Bachinski et al. (2003/0173828) as applied to claim 12 above, and further in view of Kawai (JP 2000-125484A). Mengelt and Bachinski teach a backup power supply system for a sedation and analgesia system as described above. They fail to teach sounding an alarm if said disruption occurs. Kawai teaches a backup power system where if the main power source is detected to be disrupted an alarm will sound (buzzer) ([0026], lines 1-4). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the alarm into Mengelt's invention so that the operator can be notified when the main power source has been disrupted.

6. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mengelt (5,473,533) and Bachinski et al. (2003/0173828) as applied to claim 12 above, and further in view of Faberman et al. (5,978,236). Mengelt and Bachinski teach a backup power supply system for a sedation and analgesia system as described above. They fail to teach checking the availability of the backup battery. Faberman teaches a backup power supply system with a backup battery wherein the voltage across the battery is monitored at all times to make sure enough voltage is available to supply to the load, and when not enough voltage is available to supply the load, the system is shut down (Col. 10, lines 28-39). It would have been obvious to one of ordinary skill in the art at the time of the invention to check the backup battery

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for its availability to make sure that enough voltage is available when necessary to supply power from the battery to the load and to avoid interruption in the supply of power to the load.

7. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mengelt (5,473,533), Bachinski et al. (2003/0173828), and Swanberg et al. (5,699,502). Mengelt and Bachinski teach a power supply and sedation/analgesia system as described above in claim 12. They fail to teach monitoring the functionality of the load system and terminate the supply of power if a malfunction is sensed in the system. Swanberg teaches a system where monitoring of the system is continuously performed and if a particular malfunction is detected, then a shutdown sequence is conducted. He also teaches detecting a malfunction (to one fan), but continuing to provide power for a period of time before terminating the supply (until the second fan malfunctions). (Col. 6, lines 50-63) It would have been obvious to one of ordinary skill in the art at the time of the invention to monitor the functionality of the sedation/analgesia system of Mengelt/Bachinski reference and stop supply of power to the system if a particular malfunction occurs, so that malfunctions can be detected and further damage can be eliminated by reacting accordingly to malfunctions in the system.

Also, Mengelt and Bachinski fail to explicitly teach the user deciding to terminate the supply of power to the system. However, the Examiner takes Official Notice that medical devices have Power ON/OFF buttons or switches. It would have been obvious to one of ordinary skill in the art at the time of the invention to have an ON/OFF switch on the sedation/analgesia system since the Examiner takes Official Notice that an ON/OFF switch is known to be on medical devices (and most electronic devices, for that matter) and it allows the user to use his/her discretion to decide when to terminate the supply of power to a system.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dru M. Parries whose telephone number is (571) 272-8542. The examiner can normally be reached on M-Th from 9:00am to 6:00pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus, can be reached on 571-272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DMP

12-4-2006

A handwritten signature in black ink, appearing to read "Chau Nguyen", written in a cursive style.

**CHAU N. NGUYEN
PRIMARY EXAMINER**